IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DOLORES ALLEN, Individually and as Personal Representative of the Estate of Max Allen and Wrongful Death Personal Representative of Max Allen, Deceased.

Plaintiff,

vs. Cause No. 2:14-CV-00246-GBW-LAM

DAVID BROWN,

Defendant.

DEFENDANT DAVID BROWN'S MOTION FOR PROTECTIVE ORDER AND SUPPORTING MEMORANDUM BRIEF

COMES NOW Defendant David Brown ("Defendant"), by and through his counsel of record, Civerolo, Gralow Hill & Curtis, P.A. (Lance D. Richards, Esq. and Megan Day Hill, Esq.) and moves this Court, pursuant to Rule 26 of the Federal Rules of Civil Procedure, for a Protective Order, protecting his medical records and information, mental health records and information, social security records and information, pharmaceutical records and information, employment records and financial records and information from discovery efforts in this case. Prior to filing, Defendant Brown conferred and sought to resolve these matters without Court intervention. D.N.M. LR-Civ. 7.1(a). As grounds for this Motion for Protective Order, Defendant Brown submits the following Memorandum Brief:

INTRODUCTION

On June 30, 2013, Defendant Brown, a sixty (60) year old farmer and volunteer firefighter, was attacked by the decedent, Max Allen. As Defendant Brown drove by, Mr. Allen, a man with a long history of mental illness, ran in front of the pickup, forcing it to stop.

Mr. Allen than jumped on the running board of the pickup. Mr. Allen saw that Defendant Brown had a firearm on his lap and reached through the open window to take it. The pickup traveled approximately 1,800 feet as the two men struggled for control of the gun. Defendant Brown, fearing for his life and acting in self-defense, pulled the trigger and shot Mr. Allen in the stomach. A Clovis grand jury acquitted Defendant Brown and found no wrongdoing on his part.

Plaintiff Dolores Allen, individually, as personal representative of the Estate of her brother, Max Allen, filed this wrongful death lawsuit, alleging that Defendant Brown negligently shot her brother. Plaintiff Dolores Allen also brings a loss of consortium claim for emotional distress and loss of the decedent's guidance in the management of her property in Curry County, New Mexico.

In the instant Motion for Protective Order, Defendant Brown asks this Court for an Order of Protection, protecting him from unwarranted invasion of privacy and harassing discovery intrusion. More specifically, as discussed in greater detail below, Plaintiff seeks Defendant Brown's medical records, mental health records, social security records, pharmaceutical records, employment records and financial records. These requests exceed the scope of permissible discovery, invade his reasonable expectation of privacy and seek privileged documents.

ARGUMENT

I. DEFENDANT BROWN'S MEDICAL INFORMATION AND RECORDS ARE PRIVILEGED, CONFIDENTIAL, PRIVATE AND IRRELEVANT.

In the instant case, Plaintiff seeks a HIPAA medical authorization, allowing access to all of Defendant Brown's medical records from January 1, 2003 to July 1, 2014. More specifically, Plaintiff served the following request for production:

> **REQUEST NO. 1**: Please produce an executed original of the attached HIPAA compliant Authorization to Disclose Protected Health Information – Medical Records – for David Brown executed by David Brown.
> **RESPONSE**:

(*See e.g.* Plaintiff's First Request for Production to Defendant Brown No. 1, attached hereto as Exhibit A). Good cause exists to protect Defendant Brown from this discovery because his health is not at issue in this case. Not only is the information requested irrelevant, Defendant Brown's medical records are confidential, private and protected by the physician-patient privilege.

"Rule 501 of the Federal Rules of Evidence provides that state law supplies the rule of decision on privilege in diversity cases." *Frontier Refining Inc. v. Gorman-Rupp Company, Inc.*, 136 F.3d 695, 699 (10th Cir. 1998). New Mexico Rules of Evidence set forth a general rule of privilege for confidential physician-patient communications. SCRA 11-504(B). An exception to the privilege exists where the communications are relevant to an issue of the physical, mental or emotional condition of the patient "in any proceeding in which the patient relies upon the condition as an element of the patient's claim or defense . . . ." SCRA 11-504(D)(3).

A Protective Order should further be entered protecting Defendant Brown's medical information because it is irrelevant and not the subject of any claim or defense. The thrust of Plaintiff's Complaint is that, "Defendant had a weapon which was negligently discharged, hitting Max Allen and killing him." (*See* Complaint at ¶ 9). Plaintiff's Complaint does not allege that Defendant Brown suffered from any medical issue that caused or contributed to the shooting. In addition, Defendant Brown's medical information and history is further irrelevant because he is not asserting a claim for damages and has not placed his medical condition at issue by virtue of any defense.

II. DEFENDANT BROWN'S MENTAL HEALTH RECORDS AND INFORMATION ARE PRIVILEGED, CONFIDENTIAL, PRIVATE AND IRRELEVANT.

Plaintiff next seeks a HIPAA medical authorization, allowing access to all of Defendant Brown's mental health records:

> **REQUEST NO. 2:** Please produce an executed original of the attached HIPAA compliant Authorization to Disclose Protected Health Information – Mental Health Records – for David Brown.
> **RESPONSE:**

(*See e.g.* Plaintiff's First Request for Production to Defendant Brown No. 2, attached hereto as Exhibit A). Good cause exists to protect Defendant Brown from this discovery because his mental health is not at issue in this case. Not only is the information requested irrelevant, Defendant Brown's mental health records are confidential, private and protected by the psychotherapist-patient privilege.

The United States Supreme Court outlined the federal psychotherapist privilege in *Jaffee v. Redmond, et al.*, 518 U.S. 1 (1996). The Court reasoned that the psychotherapist-patient privilege protected the private interest of confidential communication between patient and therapist and the public interest in promoting the "mental health of our citizenry." *Id.* at 11. The Tenth Circuit has ruled that the holding in *Jaffee* "is that the privilege is not rooted in any constitutional right of privacy but in a public good which overrides the quest for relevant evidence; the privilege is not subject to a 'balancing component' . . . and it covers confidential communications to licensed psychiatrists, psychologists, and clinical social workers whose . . . 'counseling sessions serve the same public goals.'" *United States v. Glass, II*, 133 F.3d 1356, 1358-59 (10th Cir. 1998) (internal citations omitted).

The Supreme Court reasoned the federal courts should "recognize a psychotherapist privilege under Rule 501" because "all 50 states and the District of Columbia have enacted into law some form of psychotherapist privilege." *Jaffee*, 518 U.S. at 12. New Mexico's psychotherapist-patient privilege, for example, provides that:

> [a] patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, made for the purposes of diagnoses or treatment of the patient's physical, mental or emotional condition . . . among the patient, the patient's physician or psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the physician or psychotherapist, including members of the patient's family.

Lara v. City of Albuquerque, 126 N.M. 455, 458 (N.M. Ct. App. 1998) (citing Rule 11-504(B) N.M.R.A. 1998). In evaluating the benefits of enforcing the privilege against the need to obtain crucial evidence, the Supreme Court explained:

> In contrast to the significant public and private interests supporting recognition of the privilege, the likely evidentiary benefit that would result from the denial of the privilege is modest. If the privilege were rejected, confidential conversations between psychotherapists and their patients would surely be chilled, particularly when it is obvious that the circumstances that give rise to the need for treatment will probably result in litigation. Without a privilege, much of the desirable evidence to which litigants such as petitioner seek access--for example, admissions against interest by a party--is unlikely to come into being. This unspoken 'evidence' will therefore serve no greater truth-seeking function than if it had been spoken and privileged.

Id. at 11-12.

Defendant Brown should not be forced to divulge any mental health records he may have simply because he is a defendant in a lawsuit. Mental health records are often sensitive in nature. When such private matters are disseminated, they can cause a party to suffer embarrassment. "The Court may grant a protective order when it is necessary to 'protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.'" Fed. R. Civ. P. 26(c). As the Supreme Court recognized, maintaining the confidentiality of this information serves important public interests. Further, as noted above, there is no evidence, suggestion or allegation that Defendant Brown suffered from any mental health issue that caused or contributed to the incident.

III. DEFENDANT BROWN'S SOCIAL SECURITY RECORDS AND INFORMATION ARE PRIVILEGED, CONFIDENTIAL, PRIVATE AND IRRELEVANT.

Plaintiff next seeks a release, allowing access to all of Defendant Brown's social security records:

> **REQUEST NO. 3**: Please produce an executed original of the attached Social Security Administration Consent for Release of Information for David Brown.
> **RESPONSE**:

(*See e.g.* Plaintiff's First Request for Production to Defendant Brown No. 3, attached hereto as Exhibit A). Good cause exists to protect Defendant Brown from this discovery because his social security records may contain not only privileged medical information, but also confidential, earnings information. As noted earlier, Defendant Brown's medical history is protected by the physician-patient privilege and he incorporates all the arguments set forth above. Further, Defendant Brown's past earning information is confidential, private and irrelevant. *See e.g.* Fed. R. Civ. P. 26(b)(1) ("[p]arties may obtain discovery regarding any non-privileged matter that is relevant to the claim or defense. . . ."). Defendant Brown's historic earnings bear no relationship to the issues in this lawsuit. In our system of jurisprudence, litigants stand as equals before the law. A defendant's liability is determined from the facts and law of the particular case--- not from his ability to satisfy a judgment.

IV. DEFENDANT BROWN'S PHAMACEUTICAL RECORDS AND INFORMATION ARE PRIVILEGED, CONFIDENTIAL, PRIVATE AND IRRELEVANT.

Plaintiff next seeks a release, allowing access to all of Defendant Brown's pharmaceutical records:

REQUEST NO. 4: Please produce an executed original of the attached Authorization to Release Pharmaceutical Records for David Brown.
RESPONSE:

(*See e.g.* Plaintiff's First Request for Production to Defendant Brown No. 4, attached hereto as Exhibit A). Good cause exists to protect Defendant Brown from being forced to disclose his privileged medical information. It is well established that discovery is not without limits. *Koch v. Koch Indus., Inc.*, 203 F.3d 1202, 1238 (10th Cir. 2000). A defendant has a right of privacy and right to be free from unwarranted or intrusive inquiries into private matters. *See, e.g., Griswold v. Connecticut*, 381 U.S. 479, 484 (1965)

V. DEFENDANT BROWN'S EMPLOYMENT AND PERSONNEL RECORDS ARE CONFIDENTIAL, IRRELEVANT AND IMMUNE FROM DISCOVERY.

Plaintiff next seeks a release, allowing access to all of Defendant Brown's employment and personnel records:

REQUEST NO. 5: Please produce an executed original of the attached Authority to Release Employment and Personnel Records and Written Information for David Brown.
RESPONSE:

(*See e.g.* Plaintiff's First Request for Production to Defendant Brown No. 5, attached hereto as Exhibit A). Good cause exists to protect Defendant Brown from being forced to disclose his privileged employment information because these records bear no nexus to this lawsuit or the allegations in the Complaint. There is no suggestion that, at the time of the shooting, Defendant Brown was in the course and scope of his employment for another. On the contrary, Defendant Brown was a self-employed farmer. Thus, it is unclear how Plaintiff intends to use an employment and personnel record release she seeks. The complete absence of any connection between the discovery sought and this case illustrates the privacy problem. As one federal court noted:

> While the defendant will be made to answer in open court to allegations in the complaint, this defendant, just like any other defendant in a civil action, no matter how high or low his or her status, *Clinton v. Jones*, 520 U.S. 681, 688, 117 S.Ct. 1636, 137 L.Ed.2d 945 (1997) (*citing Jones v. Clinton*, 72 F.3d 1354, 1358 (8th Cir.1996)), does not surrender all privacy rights *ipso facto* merely by being named as a defendant in a lawsuit.

Constand v. Cosby, 232 F.R.D. 494, 499 (E.D.Pa.,2006). A defendant is not required to surrender his privacy and allow plaintiff to inspect every confidential record obtained over a lifetime, especially in the absence of any demonstrated relevance or compelling need.

VI. DEFENDANT BROWN'S TAX RETURNS ARE CONFIDENTIAL, IRRELEVANT, OVERLY BROAD AND IMMUNE FROM DISCOVERY.

Plaintiff finally seeks state and federal income tax returns for Defendant Brown and Bar 7 Cattle Company:

> **REQUEST NO. 6:** Please produce David Brown's and Bar 7 Cattle Company's state and federal income tax returns for the past five (5) years. If returns are not available for a particular year, produce all documents in your possession or control reflecting any income earned by David Brown and Bar 7 Cattle Company during that year.
> **RESPONSE:**

(*See e.g.* Plaintiff's First Request for Production to Defendant Brown No. 6, attached hereto as Exhibit A). Good cause exists to enter a Protective Order because, first, Bar 7 Cattle Company is not a party to this lawsuit. Not only is Plaintiff seeking information from a non-party, the request also seeks confidential, private, irrelevant and highly sensitive information from this individual Defendant.

It is well established that "courts do not favor compelling production of tax returns." *See e.g. Warren, et. al. v. Campbell Farming,* United States District for the District of New Mexico, Civil No. 05-441 JP/RLP. In this district, a two-pronged test has been developed to properly balance the liberal scope of discovery and the policy favoring the confidentiality of tax returns. *Id. citing Hilt v. SFC Inc.*, 170 F.R.D. 182, 189 (D. Kan. 1997). First, the returns must be relevant to the subject matter of the action, and second, there must be a "compelling need for the returns because the information contained therein is not otherwise readily obtainable." The burden of proof is on the party seeking production to show relevancy. Once that showing is made, the burden shifts to the party opposing production to show the information sought is readily obtainable from other sources. *Id., citing Hilt v. SFC Inc.*, 170 F.R.D. 182, 189 (D. Kan. 1997).

Defendant Brown's tax returns from the last five years bear no relationship to this lawsuit. Defendant Brown is not claiming any lost wages or lost earning capacity as a result of the decedent's attack. Defendant Brown's historical finances are not relevant to any issue. *See e.g.* Fed. R. Civ. P. 26(b)(1) ("[p]arties may obtain discovery regarding any non-privileged matter that is relevant to the claim or defense. . . .").

Plaintiff suggests that this financial information might be relevant to her claim for punitive damages. This argument must be rejected because, first, Plaintiff seeks five years of tax returns. The request is overly broad, burdensome and irrelevant to the issue of punitive damages. While a defendant's present net worth could be an important factor for the jury to consider in determining an amount of punitive damages after a *prima facie* showing is made, a defendant's worth from some years ago is not relevant. In *Cincinnati Insurance Co. v. Clark*, 1992 WL 34128 (E.D. Pa. Feb. 19, 1992), the court addressed a similar issue and found that the pertinent issue is defendant's present net worth, not the defendant's net worth from years ago. Thus, in *Cincinnati Insurance Co.*, the court required defendant to produce financial information, but limited the request to defendant's present net worth. *Id.* at 2.

Further, before a defendant's present net worth may be discovered, a plaintiff must make a *prima facie* showing of entitlement to punitive damages. Courts and commentators recognize that requiring a *prima facie* showing before discovery protects the defendant from an unwarranted invasion of privacy and harassment. *James McLoughlin*, NECESSITY OF

DETERMINATION OR SHOWING OF LIABILITY FOR PUNITIVE DAMAGES BEFORE DISCOVERY OR RECEPTION OF EVIDENCE OF DEFENDANT'S WEALTH, 32 A.L.R.4th 432 (1984). Such a requirement protects a litigant's right to privacy *See also John Does I–VI v. Yogi*, 110 F.R.D. 629, 633 (D.D.C.1986) (discovery of financial status should not be turned over until necessary to prove up punitive damages); *Davis v. Ross*, 107 F.R.D. 326, 327–28 (S.D.N.Y.1985) (court holds it is required to follow state court rule barring discovery of net worth until the trier of fact finds that the plaintiff is entitled to punitive damages); *Skinner v. Aetna Life Ins. Co.*, 38 Fed.R.Serv.2d 1194, 1195 (D.D.C.1984) (discovery not permitted in absence of a prima facie showing of punitive damages); *Chenoweth v. Schaaf,* 98 F.R.D. 587, 589–90 (W.D.Pa.1983) (discovery barred absent allegations in complaint of facts that demonstrate a "real possibility" that punitive damages will be at issue); *Rupe v. Fourman*, 532 F.Supp. 344, 350–51 (S.D.Ohio 1981) (in a bifurcated trial, discovery of personal financial status for punitive damages claim not permitted unless and until defendant's liability established).

WHEREFORE, Defendant Brown moves this Court for an Order protecting his medical records and information, mental health records and information, social security records and information, pharmaceutical records and information, employment and personnel records information, and financial records and information from discovery efforts in this case and for such other relief as the Court deems just and proper.

Respectfully Submitted,
CIVEROLO, GRALOW, HILL & CURTIS, P.A.

By:______________________________

Lance D. Richards
Megan Day Hill
Attorneys for Defendant
P.O. Drawer 887
Albuquerque, NM 87103-0887
(505) 842-8255

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on this 14th day of July, 2014, a copy of the foregoing was submitted for electronic filing with the Court and the following parties or counsel were served by electronic means through the Court's CM/ECF electronic filing and service system as follows:

Attorneys for Plaintiff

Michael T. Garrett, Esq.
920 North Main Street
Clovis, NM 88101-5931
E-mail: garrettlaw@aol.com

Lance D. Richards
Megan Day Hill

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JUN 1 8 2014

DOLORES ALLEN, Individually and as
Personal Representative of the Estate of Max Allen
and Wrongful Death Personal Representative of
Max Allen, Deceased.

Plaintiff,

vs. Cause No. 2:14-CV-00246-GBW-LAM

DAVID BROWN,

Defendant.

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION
TO DEFENDANT DAVID BROWN

TO: DAVID BROWN
c/o Lance Richards, Esq.
Civerolo, Gralow, Hill & Curtis, PA
PO Box 887
Albuquerque, NM 87103-0887

COMES NOW Plaintiff Dolores Allen, by and through her attorney of record, Garrett Law Firm, P.A. (Michael T. Garrett, Esq.), and pursuant to Rule 34 of the Federal Rules of Civil Procedure, hereby requests you answer the following Requests for Production fully in writing, under oath, based upon facts or information available to you, your agents or attorneys, within 30 days, as prescribed by law.

REQUEST NO. 1: Please produce an executed original of the attached HIPAA compliant Authorization to Disclose Protected Health Information – Medical Records – for David Brown executed by David Brown.

tabbies
EXHIBIT
A

REQUEST NO. 3: Please produce an executed original of the attached Social Security Administration Consent for Release of Information for David Brown.

RESPONSE:

REQUEST NO. 4: Please produce an executed original of the attached Authorization to Release Pharmaceutical Records for David Brown.

RESPONSE:

REQUEST NO. 5: Please produce an executed original of the attached Authority to Release Employment and Personnel Records and Written Information for David Brown.

RESPONSE:

REQUEST NO. 6: Please produce David Brown's and Bar 7 Cattle Company's state and federal income tax returns for the past five (5) years. If returns are not available for a particular year, produce all documents in your possession or control reflecting any income earned by David Brown and Bar 7 Cattle Company during that year.

RESPONSE:

REQUEST NO. 7: Please produce copies of all medical records you have obtained from any source for David Brown and/or Max Allen, including but not limited to law enforcement, prosecutor, any emergency medical services, and any other medical provider or holder of such records.

RESPONSE:

REQUEST NO. 8: Please produce copies of any documents or writings which may be offered as an exhibit at trial in this matter.

RESPONSE:

REQUEST NO. 9: Please produce copies of any correspondence or documents of any kind relating to Defendant's defenses of any damage claims or losses which Plaintiff is asserting as a result of the claims alleged in Plaintiff's Complaint and David Brown's Answer.

RESPONSE:

REQUEST NO. 10: Please produce copies of bills or expenses incurred which you claim are in any way related to Defendant's alleged defenses in this cause. When bills are no longer available, then an itemized statement listing any expenses, the dates incurred and the reasons why such expenses are related to Defendant's alleged defenses should be produced.

RESPONSE:

REQUEST NO. 11: Please produce copies of any photographs, slides, videotapes, or motion pictures taken of Max Allen, the Max Allen farm, the Dolores Allen farm, the location of the incident in question and David Brown which could be relevant to the claims made in the Complaint, the Answer and defenses made to such claims and/or which might be introduced into evidence in this cause.

RESPONSE:

REQUEST NO. 12: Please produce copies of any correspondence between yourself or any of your agents with any expert witness you may call as a witness at trial, including copies of their curriculum vitae, reports and a description of the materials sent to the expert for their review and a copy of any report they have prepared.

RESPONSE:

REQUEST NO. 13: Please produce copies of any documents or writings, regardless of the media contained thereon, which were prepared by you contemporaneously with the events alleged herein or which were prepared subsequently and not at the instruction of your defense attorney herein. Such notes may be kept in the form of a diary or a journal or notes which you wrote to help you remember the events that occurred in this case.

RESPONSE:

REQUEST NO. 14: Produce all memoranda, notes, correspondence and other documents pertaining in any way to any claim for insurance benefits, legal defense or other benefits filed for by David Brown and/or Bar 7 Cattle Company as a result of the incident alleged in the Complaint and the Answer and defenses thereto.

RESPONSE:

REQUEST NO. 15: Produce any and all statements, correspondence, memoranda, notes or other documents obtained from any person having or purporting to have knowledge relating to the incident alleged in the Complaint and the Answer and defenses thereto.

RESPONSE:

REQUEST NO. 16: Produce all diagrams, photographs, reports, memoranda, statements, notes, documents or other tangible items regarding or resulting from any investigation of the incident alleged in the Complaint and the Answer and defenses thereto.

RESPONSE:

REQUEST NO. 17: Produce records and/or materials obtained from any third party concerning the incident at issue.

RESPONSE:

REQUEST NO. 18: Produce any documents relied on to answer any of the accompanying interrogatories, referred to in your responses thereto and Answer and defenses thereto.

RESPONSE:

REQUEST NO. 19: Produce any and all leases Max Allen and/or Dolores Allen had with Bar 7 Cattle Company and/or David Brown for the past ten (10) years.

RESPONSE:

REQUEST NO. 20: Produce any and all financial and accounting records, including profit and loss statements resulting from the leasing and farming of cropland owned by Max Allen and/or Dolores Allen for the past five (5) years.

RESPONSE:

REQUEST NO. 21: Produce any and all written demands for performance under the terms of any lease that Max Allen and/or Dolores Allen had with Bar 7 Cattle Company and/or David Brown for the past five (5) years to include demands by and to Max Allen, Dolores Allen, David Brown and Bar 7 Cattle Company.

RESPONSE:

REQUEST NO. 22: Produce any and all records, writings, verbal summaries and documents that you expect to use at trial to support your defenses to the Plaintiff's claims to include any alleged statements against interests made or alleged to have been made by Max Allen and/or Dolores Allen.

CIVEROLO, GRALOW, HILL & CURTIS
A Professional Association

By:____________________________________
Lance D. Richards
Megan Day Hill
Attorneys for Defendant
P.O. Drawer 887
Albuquerque, NM 87103-0887
(505) 842-8255

HIPAA
AUTHORIZATION TO DISCLOSE PROTECTED HEALTH INFORMATION
MEDICAL RECORDS

THIS DOCUMENT DOES NOT AUTHORIZE RELEASE OF ANY RECORDS CONCERNING OR RELATED TO ANY ALCOHOL, DRUG, HIV OR PSYCHIATRIC CARE, TESTING OR TREATMENT

Patient name: **DAVID BROWN** **D.O.B.:** 03/25/1954 **S.S.N.:** ______________

Dates of Treatment: beginning **01.01.2003** **through** **07.01.2014**
[relevant time period must be inserted]

AUTHORIZATION:

I, **DAVID BROWN**, authorize the disclosure of the protected health information of **DAVID BROWN** as described herein.

1. I authorize the following person(s) and/or organization(s) to disclose the protected health information described in paragraph 3.

[individual medical provider name must be inserted]

2. I authorize the following person(s) and/or organization(s) to receive the protected health information described in paragraph 3.

Michael T. Garrett, Esq. Garrett Law Firm, PA 920 N Main St Clovis, NM 88101

[individual firm or lawyer must be inserted]

3. The records authorized to be released include:

all medical records and billing records including without limitation: medical reports, clinical notes, nurses notes, history of injury, subjective and objective complaints, x-rays, x-ray reports or interpretations, other diagnostic tests (including a copy of the report), diagnosis and prognosis; if applicable, emergency room records or logs, history and physical examination report, laboratory reports, tissue committee reports, reports of operation, operation logs, progress notes, doctors orders, nurses notes, physical therapy records, admission and discharge summaries, and all out-patient records; hospital bills, bills for the services you have rendered, bills for medication; and any other documents, records, or information in your possession relative to **DAVID BROWN'S** past, present or future physical condition.

4. I expressly waive any laws, regulations and rules of ethics which might prevent any health care provider who has examined or treated me from disclosing **DAVID BROWN'S** records pursuant to this Authorization.

5. The purpose of this Authorization relates to a legal action now pending in the United States District Court for the District of New Mexico.

6. I understand that I may revoke this Authorization at any time by sending a letter to the person or organization listed in paragraph one (1), except to the extent that such person(s) and/or organization(s) may have already taken action in reliance on this Authorization. If I do not sign, or if I later revoke, this Authorization, the services provided to me by such person or organization will not be affected in any way.

7. This Authorization expires one year from its date of execution.

8. THIS AUTHORIZATION DOES NOT PERMIT THE PERSON OR ORGANIZATION LISTED IN PARAGRAPH TWO (2) TO OBTAIN OR REQUEST FROM THE MEDICAL PROVIDER IDENTIFIED IN PARAGRAPH ONE (1) ORAL STATEMENTS, OPINIONS, INTERVIEWS, OR REPORTS THAT ARE NOT ALREADY IN EXISTENCE.

9. Copying costs will be borne by the person or organization named in paragraph two (2).

10. A photocopy or facsimile of this Authorization is as valid as an original.

11. I understand that a potential exists for information that is disclosed pursuant to this Authorization to be subject to re-disclosure by the recipient and therefore be no longer protected by federal confidentiality rules.

SIGNATURE OF PATIENT OR AUTHORIZED REPRESENTATIVE: ______________________________

David Brown

CAPACITY OF REPRESENTATIVE, IF APPLICABLE: ______________________________

DATE OF SIGNATURE: ______________________________

HIPAA
AUTHORIZATION TO DISCLOSE PROTECTED HEALTH INFORMATION
MENTAL HEALTH RECORDS

Patient name: DAVID BROWN D.O.B.: 03/25/1954 S.S.N.: _______________

Dates of Treatment: beginning 01.01.2003 through 07.01.2014
[relevant time period must be inserted]

AUTHORIZATION:

I, **DAVID BROWN**, authorize the disclosure of the protected health information of **DAVID BROWN** as described herein.

1. I authorize the following person(s) and/or organization(s) to disclose the protected health information described in paragraph 3.

[individual medical provider name must be inserted]

2. I authorize the following person(s) and/or organization(s) to receive the protected health information described in paragraph 3.

Michael T. Garrett, Esq. Garrett Law Firm, PA 920 N Main St Clovis, NM 88101

[individual firm or lawyer must be inserted]

3. The records authorized to be released include:

[X] complete copy of medical records

[X] test results

[X] other – *billings, notes, referral records, all report, consult, and pharmaceutical*

4. I expressly waive any laws, regulations and rules of ethics which might prevent any health care provider who has examined or treated me from disclosing **DAVID BROWN'S** records pursuant to this Authorization.

5. The purpose of this Authorization relates to a legal action now pending in the United States District Court for the District of New Mexico.

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9. Copying costs will be borne by the person or organization named in paragraph two (2).

10. A photocopy or facsimile of this Authorization is as valid as an original.

11. I understand that I have a right to examine the information to be disclosed, unless deemed that such disclosure is not in my best interest.

12. I understand that a potential exists for information that is disclosed pursuant to this Authorization to be subject to re-disclosure by the recipient and therefore be no longer protected by federal confidentiality rules.

SIGNATURE OF PATIENT OR AUTHORIZED REPRESENTATIVE: ______________________________
David Brown

CAPACITY OF REPRESENTATIVE, IF APPLICABLE: ______________________________

DATE OF SIGNATURE: ______________________________

Form Approved
OMB No. 0960-0566

Social Security Administration
Consent for Release of Information

TO: Social Security Administration

DAVID BROWN 03/25/1954

Name Date of Birth Social Security Number

I authorize the Social Security Administration to release information or records about DAVID BROWN to:

NAME ADDRESS

Michael T. Garrett, Esq. 920 N. Main St. Clovis, NM 88101
Garrett Law Firm, PA

I want this information released because:
I am involved in litigation and the information is required to ensure compliance with MMSEA Section 111 requirements.
(There may be a charge for releasing information.)

Please release the following information:
_X_ Social Security Number
_X_ Identifying information (includes date and place of birth, parents' names)
_X_ Monthly Social Security benefit amount
_X_ Monthly Supplemental Security Income payment amount
_X_ Information about benefits/payments received from January 2003 to present
_X_ Information about my Medicare claim/coverage from January 2003 to present
____ Medical records
_X_ Record(s) from my file (specify): Any evidence of conditional payments made by Social Security or Medicare.
____ Other (specify) ____

I am the Personal Representative of the individual to whom the information/record applies. I declare under penalty of perjury in accordance with 28 C.F.R. § 16.41(d)(2004) that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge. I understand that anyone who knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000. I also understand that any applicable fees must be paid by me.

*Signature:____________________ *Date:____________
David Brown

Relationship (if not the individual):____________ *Daytime Phone:____________

AUTHORIZATION TO RELEASE PHARMACEUTICAL RECORDS

Date:

To Whom It May Concern:

On behalf of DAVID BROWN, I do hereby authorize you to release any pharmaceutical records of DAVID BROWN, from 2003 to present, to Garrett Law Firm, P.A. (Michael T. Garrett, Esq), 920 N. Main St., Clovis, NM 88101 or their duly authorized agents, including the file of DAVID BROWN; all records of prescriptions, payments, and prescribing doctors or health care providers; and any other document or writing not previously mentioned which in any way relates to my pharmaceutical records.

I understand that any documents or records released by you could potentially be re-disclosed by the aforementioned records requestor, and that any information re-disclosed by that party is not subject to this authorization or the regulations imposed by 45 CFR § 164.508. This authorization is executed and served in compliance with the Federal Regulations governing the release of private health information as outlined under 45 CFR § 164.508. I understand that this authorization is voluntary and I may refuse to sign it. Pursuant to CFR 164.524, I may inspect or copy the information provided. I have the right to receive a notice of privacy from any health care provider that discloses the above protected health information.

I hereby expressly waive any laws, regulations, and rules which might prevent you from disclosing such information.

Photocopies of this signed authorization shall be also valid authorization.

Attorney Garrett will timely forward copies of any and all documents received pursuant to this request to my attorney.

____
David Brown

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David Brown - Date of Birth – 03/25/1954

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David Brown - Social Security Number

Date: __________________________

AUTHORITY TO RELEASE
EMPLOYMENT AND PERSONNEL RECORDS AND WRITTEN INFORMATION

TO:

RE: DAVID BROWN
DOB: 03/25/1954
SSN: ____________

I hereby authorize you or any member or employee of your office to release complete and legible copies of any and all written information concerning the employment of DAVID BROWN to Michael T. Garrett, Garrett Law Firm, P.A., 920 N. Main St., Clovis, NM 88101.

This Authority to Release includes, but is not limited to, the entire personnel file maintained by you for DAVID BROWN, including all job performance evaluations and/or rate or range reviews.

I hereby expressly waive any laws, regulations, and rules of ethics which might prevent you from releasing the information and records requested.

I shall appreciate your cooperation and the release of the information and records requested, and I hereby hold you harmless from any liability in connection with the disclosure of the information and records requested.

A copy of this Authorization containing my signature shall be as effective and valid as the original and shall be honored by those to whom it is sent or provided.

____
David Brown
Date:________________________